

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 106

## **SENATE BILL 1543**

AN ACT

AMENDING SECTION 44-1843, ARIZONA REVISED STATUTES; RELATING TO THE SALE OF SECURITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1843, Arizona Revised Statutes, is amended to  
3 read:

4 44-1843. Exempt securities; fee; filing

5 A. Sections 44-1841 and 44-1842, section 44-1843.02, subsections B and  
6 C and sections 44-3321 and 44-3325 do not apply to any of the following  
7 classes of securities:

8 1. Securities issued or guaranteed by the United States, by any state,  
9 territory or insular possession of the United States, by any political  
10 subdivision of such state, territory or insular possession, by the District  
11 of Columbia or by any agency or instrumentality of one or more of any of the  
12 foregoing. This exemption shall not apply to securities regulated pursuant  
13 to section 44-1843.01.

14 2. Securities issued by a national bank, a bank or a credit or loan  
15 association organized pursuant to an act of Congress and supervised by the  
16 United States or an agency of the United States, or issued by a state bank or  
17 savings institution the business of which is supervised and regulated by an  
18 agency of this state or of the United States.

19 3. Securities issued by a savings and loan association subject to  
20 supervision by an agency of this state.

21 4. Insurance or endowment policies, variable contracts, annuity  
22 contracts or optional annuity contracts issued by a person subject to the  
23 supervision of and licensed by the insurance commissioner, the bank  
24 commissioner or any agency of the United States, any state or the District of  
25 Columbia performing like functions.

26 5. Securities issued or guaranteed either as to principal, interest or  
27 dividend by a railroad or public utility if the issuance of its securities is  
28 regulated by an agency of the United States, a state, territory or insular  
29 possession of the United States, an agency of the District of Columbia or an  
30 agency of the Dominion of Canada or any province of the Dominion of Canada,  
31 and also equipment trust certificates in respect to equipment conditionally  
32 sold or leased to a railroad or public utility, if other securities issued by  
33 such railroad or public utility would be exempt under this paragraph.

34 6. Securities issued by a person that is organized and operated  
35 exclusively for religious, educational, benevolent, fraternal, charitable or  
36 reformatory purposes and not for pecuniary profit, and no part of the net  
37 earnings of which inures to the benefit of any person, private stockholder or  
38 individual and securities issued by or any interest or participation in any  
39 pooled income fund, collective trust fund, collective investment fund or  
40 similar fund that is excluded from the definition of an investment company  
41 under section 3(c)(10)(B) of the investment company act of 1940. The  
42 exemption prescribed in this paragraph does not apply to any of the  
43 following, unless excluded from the definition of an investment company under  
44 section 3(c)(10)(B) of the investment company act of 1940:

1 (a) Securities made liens upon revenue producing property subject to  
2 taxation.

3 (b) Securities issued by a nonprofit organization that is engaged in,  
4 intends to engage in, controls, finances or lends funds or property to other  
5 entities engaged in the construction, operation, maintenance or management of  
6 a hospital, sanitarium, rest home, clinic, medical hotel, mortuary, cemetery,  
7 mausoleum or other similar facilities.

8 (c) Interest bearing or noninterest bearing debt securities EXCEPT FOR  
9 FIRST MORTGAGE BONDS ISSUED BY INDIVIDUAL CHURCHES AND AFFILIATED RELIGIOUS  
10 SCHOOLS IN AN AGGREGATE OUTSTANDING AMOUNT NOT TO EXCEED TWENTY-FIVE MILLION  
11 DOLLARS BY ANY ONE SINGLE ISSUER PROVIDED THAT NO COMMISSION OR REMUNERATION  
12 OF ANY KIND, OTHER THAN TRANSFER AGENT'S FEES, IS PAID, DIRECTLY OR  
13 INDIRECTLY, TO ANY PERSON OTHER THAN A REGISTERED DEALER OR REGISTERED  
14 SALESMAN IN CONNECTION WITH THE OFFER FOR SALE OR SALE OF SUCH BONDS.

15 (d) Securities whose terms include significant features that are  
16 common to debt securities and that the commission finds are the functional  
17 equivalent of debt securities.

18 7. Securities listed or approved for listing upon the issuance thereof  
19 upon the New York stock exchange, the American stock exchange, the midwest  
20 stock exchange or any other national securities exchange that is registered  
21 under the securities exchange act of 1934 and that is designated by the  
22 commission as provided in this paragraph, and securities designated or  
23 approved for designation on notice of issuance on the national market system  
24 of a national securities association registered under the securities exchange  
25 act of 1934, and all securities senior or equal in rank to any securities so  
26 listed or approved for listing, designated or approved for designation or  
27 represented by subscription rights or warrants that have been so listed,  
28 designated or approved and any warrant or right to purchase or subscribe to  
29 any of the foregoing. In addition to the securities exchanges prescribed in  
30 this paragraph, the commission may by order designate any registered national  
31 securities exchange if it finds that it would be in the public interest for  
32 securities listed on the exchange to be exempt. The commission may at any  
33 time by order withdraw a designation of an exchange or association made under  
34 this paragraph.

35 8. Commercial paper that arises out of a current transaction or the  
36 proceeds of which have been or are to be used for current transactions, that  
37 evidences an obligation to pay cash within nine months of the date of  
38 issuance or sale, exclusive of days of grace, or any renewal of such paper  
39 that is likewise limited, or any guarantee of such paper or of any such  
40 renewal.

41 9. Securities issued or guaranteed by any foreign government with  
42 which the United States is at the time of the sale maintaining diplomatic  
43 relations, or securities issued or guaranteed by a political subdivision of  
44 such foreign government having the power of taxation, if none of the  
45 securities of the foreign government or political subdivision are in default

1 either as to principal or interest, and which securities when offered for  
2 sale in this state are acknowledged as valid obligations by the foreign  
3 government or political subdivision and registered under the securities act  
4 of 1933.

5 10. Notes or bonds secured by a mortgage or deed of trust on real  
6 estate or chattels, or a contract or agreement for the sale of real estate or  
7 chattels, if the entire mortgage, contract or agreement together with all  
8 notes or bonds secured thereby is sold or offered for sale as a unit, except  
9 for real property investment contracts.

10 11. Mortgage related securities, as defined in section 3(a)(41) of the  
11 securities exchange act of 1934.

12 B. Issuers of securities that are exempt under subsection A,  
13 paragraphs 6, 7 and 9 of this section, within thirty days after the first  
14 sale of the securities in this state, shall pay to the commission a fee of  
15 two hundred dollars for each offering, and the commission shall deposit the  
16 fees in the commerce and economic development commission fund established in  
17 section 41-1505.10.

18 C. Any securities that are offered and sold pursuant to section 4(5)  
19 of the securities act of 1933 or that are mortgage related securities as the  
20 term is defined in section 3(a)(41) of the securities exchange act of 1934  
21 are not preempted by federal law. These instruments, commonly referred to as  
22 private mortgage backed securities, may be exempt from the registration  
23 requirements of this chapter if the transaction or the securities are  
24 otherwise exempt under this chapter. This subsection specifically overrides  
25 the preemption of state law contained in section 106(c) of the secondary  
26 mortgage market enhancement act of 1984 (P.L. 98-440).

27 D. Noncompliance with the requirements in subsection B of this section  
28 to pay fees shall not result in the loss of the exemption allowed by this  
29 section.

APPROVED BY THE GOVERNOR APRIL 13, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2011.

Passed the House April 6, 2011,

by the following vote: 57 Ayes,

2 Nays, 1 Not Voting

[Signature]  
Speaker of the House

Cheryl Laube  
Chief Clerk of the House

Passed the Senate March 3, 2011,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

[Signature]  
President of the Senate

Chauvin B. B. B.  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**S.B. 1543**

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 7, 20 11

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

7 day of April, 20 11

at 4:45 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 13<sup>th</sup> day of

April

at 10:07 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13<sup>th</sup> day of April, 20 11

S.B. 1543

at 4:59 o'clock P. M.

[Signature]  
Secretary of State